

January 4, 2021

Mr. Luke Puschnig
Clark County School District
5100 W. Sahara Avenue
Las Vegas, NV 89146
Sent electronically and by USPS

Re: Trustee-elect Lisa Guzman

Mr. Puschnig,

Lisa Guzman is the Trustee-elect of the Clark County School Board of Trustees representing District A. She is currently employed as the Assistant Executive Director of Nevada State Education Association ("NSEA"), a position which she has held for five years, and is the Executive Director of NSEA's affiliate organization – the Education Support Employees Association ("ESEA").

Ms. Guzman financially benefits from each of these positions by way of salary and each of these organizations stand to benefit from votes which Ms. Guzman can take as trustee as explained below.

Should Ms. Guzman continue to hold positions within ESEA or NSEA while serving as Trustee it will violate multiple sections of Nevada's Ethics in Government Law, NRS Chapter 281A.

NRS 281A.400(1) states:

A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

NRS 281A.400(2) states:

A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity. As used in this subsection, "unwarranted" means without justification or adequate reason.

NRS 281A.400(3) states:

A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity.

"Commitment in a private capacity" includes a commitment, interest or relationship of a public officer or employee to a person:

4. *Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;*

5. *With whom the public officer or employee has a substantial and continuing business relationship; or*

6. *With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.*

See NRS 281A.065.

Ms. Guzman's employment and/or engagement with NSEA and ESEA makes it impossible for her to be impartial in any matters concerning CCEA. In 2018 CCEA disaffiliated from NSEA and its parent organization NEA. This has resulted in multiple litigations initiated by NEA and NSEA against CCEA which are currently ongoing. NSEA has attempted to impermissibly act on behalf of bargaining unit members as a "rival employee organization" in violation of NRS Chapter 288 which has resulted in litigation before the State of Nevada Government Employee Management Relations Board ("EMRB").

In addition, following disaffiliation by the CCEA in 2018, NEA, the parent organization of NSEA, started a new rival employee organization called the NEA-SN to challenge CCEA. A review of information from the Secretary of State reveals that the President of the NEA-SN, Vicki Kreidel, and its Secretary, Elizabeth Mercedes Krause, are members of NSEA's Board of Directors. Starting in February of 2018 NEA began sending millions of dollars to NSEA in the form of loans. One condition of these loans is that they do not accrue interest until the litigation between CCEA and NEA is concluded. These loans make up a significant portion of NSEA's budget. Because Guzman's salary is derived from NSEA and a large portion of NSEA's budget is in the form of loans which have more favorable terms so long as litigation continues between NEA and CCEA Guzman could never be seen to be impartial when it comes to a vote regarding CCEA.

Guzman's impartiality with regards to CCEA is further compromised by being a high level officer within NSEA with decision making authority. CCEA stands in direct competition to NEA-SN whose membership dues go in part to fund NSEA operations. At the bare minimum, there will be the appearance of bias anytime she votes on a matter regarding CCEA because of her affiliation with what would be defined by the EMRB to be a "rival employee organization." See e.g. *Lyon County Education Association v. Lyon County School District*, Case No. Case No. 2016-011 Item No. 817 (2016); *Nevada Highway Patrol Association v. State of Nevada et al.*, Case No. 2020-011, Item No. 865 (2020).

Ms. Guzman's employment with NSEA and/or ESEA also causes conflict with any votes regarding ESEA. ESEA is an affiliate organization of NSEA and is the current recognized exclusive collective-bargaining representative for the non-licensed and non-commissioned (i.e. police) employees of the District. ESEA members pay dues, a portion of which goes to NSEA. These dues, along with the loans referenced above, make up the

budget of NSEA from which employees, including Guzman, receive salary. ESEA also provided financial support for Guzman's campaign directly from its organization and through its TIP totaling \$10,000. The Trustees of the District are responsible for oversight and control of the negotiating team of the District in connection with collective bargaining under NRS Chapter 288. The provisions of NRS 288.153 require that any collective bargaining agreement negotiated by the District and its recognized employee representatives be ratified by the Trustees at a public meeting.

Furthermore, ESEA, NEA, and NEA-SN have reached an agreement with the Teamsters local 14 to split the support staff bargaining unit. Any vote for recognition of the Teamsters or of the modified ESEA bargaining unit would present another conflict of interest for Guzman as she was working in a position of authority for two of these organizations when this agreement was reached and was endorsed by ESEA and the Teamsters.

Simply put, in our opinion, NRS 281A.400(3) expressly prohibits Ms. Guzman from negotiating or voting to ratify any collective bargaining agreement or other contract involving ESEA. Likewise, Guzman's NSEA affiliation would, in our opinion, prohibit her from voting in connection with any bargaining agreement or other contract negotiated with the CCEA.

Despite Ms. Guzman only being the Trustee-elect, her acting in her capacity as ESEA Executive Director creates a *present* conflict of interest. Guzman is participating in meetings regarding legislative strategy regarding the CCSD budget with CCSD staff. She has gone on podcasts to take stances on policy positions in favor of ESEA's bargaining unit and had CCSD staff send out communications to promote ESEA member benefits while utilizing the title of "Trustee-elect." Her being Trustee-elect gives her undue influence in each of these situations. It would be impossible for CCSD staff to separate her two roles and treat her as Executive Director as ESEA as opposed to an incoming Trustee.

While resignation from any and all NSEA and/or ESEA affiliated positions may cure the clear statutory violations, Guzman's history with CCEA's rival which includes Guzman following and likely starting an anti-CCEA twitter page, calls into question whether she can faithfully discharge her duties on any matter regarding CCEA without there being the perception of bias by any reasonable observer. As two of the stated policy objectives of the Ethics in Government Law are "maintaining public confidence in government, which implicates the matter of appearances", and "assuring that decisions of public importance are not influenced by private considerations", see NRS 281A.020, it seems impossible for Ms. Guzman to separate herself from her past behavior of trying to attack and supplant the recognized bargaining agent for licensed education professionals of CCSD. Any decision she makes will have the appearance of bias and prejudice. This is true regardless of her employment due to her past behavior, but is especially true if she continues being employed by the rival employee organization which is seeking to undermine and supplant CCEA.

Even if Ms. Guzman were to step down from any ESEA position, ESEA is still an affiliate of NSEA. There would still be a very real conflict of interest in her serving on the Board which would vote on contracts of an NSEA affiliate while being employed by NSEA. There is no way for a reasonable person to believe that Ms. Guzman can be impartial while working for this organization.

Ultimately, while there is a preference that elected officials have jobs outside of legislative bodies, Ms. Guzman's positions create real and perceived conflicts which would call into question any vote she takes with regard to the two largest bargaining units within CCSD. Ms. Guzman, like all candidates for elected office in the State of Nevada, had the opportunity to request an opinion from the Nevada Commission on Ethics regarding these

conflicts. We are told that Ms. Guzman instead relied on the advice of NSEA's counsel. This shows extraordinarily poor judgment on the part of Ms. Guzman. When she takes office we would expect that Ms. Guzman will seek advice regarding her position as Trustee from the appropriate parties, namely the Nevada Commission on Ethics and the County Counsel instead of on the private attorneys of the her current employer.

As the exclusive bargaining agent of the close to 19,000 licensed educators within CCSD, CCEA requests that the Clark County School Board of Trustees does what Ms. Guzman failed to do, request an opinion from the Nevada Commission on Ethics regarding Ms. Guzman's numerous conflicts of interest. The Board of Trustees has a duty to the community, to the 35,000 people in CCSD's employ, and to the more than 300,000 students which it serves to ensure that its members are not beholden to outside groups and that the focus of each Trustee is exclusively on what is best for the students within CCSD.

Until these conflicts can be addressed by the appropriate agency, we ask that Ms. Guzman recuse herself from all votes regarding CCEA, NSEA, NEA, ESEA, or the Teamsters. Any vote she takes which involves these parties could involve actual conflicts and would certainly raise the perception of bias. It would be impossible for the public to be confident that Ms. Guzman's votes on any matter regarding these parties was not influenced by her employment and pecuniary interests.

While it would be unfortunate to require Ms. Guzman to resign her employment and abstain from votes regarding these two organizations, we believe that this is the only remedy for the situation she has placed herself in. If Ms. Guzman does not resign all positions with NSEA, ESEA and any other affiliated organizations prior to being sworn in, or if she undertakes to vote on any CCEA or ESEA related matter after being sworn in, a formal Complaint will be filed with the Ethics Commission.

Sincerely,



Steve Sorensen
General Counsel, CCEA

cc: Ms. Mary-Anne Miller
John Vellardita